

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL MANJEET SINGH,

Plaintiff,

v.

WARDEN PHEIFFER, *et al.*,

Defendants.

Case No. 1:22-cv-01412-ADA-EPG (PC)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
THAT THIS ACTION BE DISMISSED FOR
FAILURE TO PROSECUTE AND COMPLY
WITH A COURT ORDER

(ECF No. 29).

ORDER GRANTING PLAINTIFF'S
REQUEST FOR AN EXTENSION TO
RESPOND TO THE SCREENING ORDER

ORDER DIRECTING THE CLERK'S OFFICE
TO ATTACH A COPY OF THE COURT'S
SCREENING ORDER TO THIS ORDER

Michael Manjeet Singh ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. (ECF No. 9).¹

On November 2, 2022, Plaintiff's case was transferred to this Court from the Northern District of California. (ECF No. 19). On April 3, 2023, the Court issued a screening order, ordering Plaintiff to file, within thirty days, either an (1) amended complaint or; (2) notice that he

¹ The Court notes that Plaintiff filed a duplicate copy of his original complaint on August 4, 2022, which was docketed as "Amended Complaint." (ECF No. 15).

1 wished to proceed only on the claims found cognizable in the Court’s screening order or; (3)
2 notice that he wished to stand on his complaint. (ECF No. 28). On May 23, 2023, the Court
3 entered findings and recommendations, recommending that this action be dismissed, without
4 prejudice, for failure to prosecute and comply with a court order after Plaintiff failed to timely
5 respond to the Court’s screening order. (ECF No. 29).

6 On June 5, 2023, Plaintiff filed timely objections which state that Plaintiff believed that he
7 had filed for an extension to respond to the screening order and that his request has been granted.
8 (ECF No. 30, pp. 1-3). As Plaintiff explains, the extension request was actually filed in *Singh v.*
9 *Pheiffer, et al.*, Case No. 1:22-cv-01446-JLT-GSA (PC) (“*Singh I*”) and granted by Magistrate
10 Judge Gary S. Austin. (*Id.*) It appears that Plaintiff was unaware that he had initiated a second
11 action, *Singh II*, which asserts duplicate claims as the ones asserted in this action.² See *Singh II*,
12 2023 WL 4162907, at *2 (E.D. Cal. June 23, 2023) (“Findings and Recommendations,
13 Recommending That This Case Be Dismissed as Duplicative of Case 1:22-cv-001412-ADA-EPG
14 (PC)”). Thus, when Plaintiff received an “Order of Reassignment” issued in *Singh II* shortly after
15 receiving the Court’s screening order in this case, Plaintiff believed that this case had been
16 reassigned with a new case number and filed his request for an extension accordingly. (ECF No.
17 30, pp. 1-2).

18 After reviewing Plaintiff’s objections, it appears that Plaintiff made a good faith effort to
19 comply with the Court’s screening order. Accordingly, the Court will vacate the findings and
20 recommendations issued on May 23, 2023. (ECF No. 29). Further, the Court will grant Plaintiff’s
21 request for a sixty-day extension to respond to the Court’s screening order.

22 Based on the foregoing, IT IS ORDERED that:

- 23 1. The Court’s findings and recommendations issued on May 23, 2023 (ECF No. 29) are
24 VACATED;
- 25 2. Within sixty (60) days from the date of service of this order, Plaintiff shall either:
 - 26 a. File a First Amended Complaint; or

27 ² Plaintiff’s objections also request consolidation of this case with *Singh II*. (ECF No. 30, p. 2). As Judge Austin’s
28 pending findings and recommendations note, there is a pending motion to consolidate before District Judge Thurston
in *Singh II*. 2023 WL 4162907, at *1. Accordingly, the Court will not address this request.

- b. Notify the Court that he wants to proceed only on claims against Defendants Veithr, Fowler, and Diaz identified in the Court's April 3, 2023 screening order (ECF No. 28); or
 - c. Notify the Court in writing that he wants to stand on his complaint.
3. Should Plaintiff choose to amend his complaint, Plaintiff shall caption the amended complaint "First Amended Complaint" and refer to the case number 1:22-cv-01412-ADA-EPG; and
4. Failure to comply with this order may result in the dismissal of this action.
5. Finally, the Clerk of the Court is respectfully directed to attach a copy of the Court's screening order (ECF No. 28) to this order.

IT IS SO ORDERED.

Dated: **June 27, 2023**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE